

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RONALD J. HERTRICH,

Plaintiff,

v.

05cv1607

ELECTRONICALLY FILED

JOHN E. POTTER,

Defendant.

Order of Court

AND NOW, this 14th day of February, 2006, after careful review of defendant John E. Potter's motion to dismiss or for partial summary judgment (Documents No. 2, 3), and in light of plaintiff's failure to file the response that was due by February 10, 2006, the Court agrees with defendant that plaintiff Ronald J. Hertrich has failed to exhaust his administrative remedies with regard to his retaliation claim at Count II of the complaint. Accordingly,

IT IS HEREBY ORDERED that defendant's motion to dismiss or in the alternative, for partial summary judgment (Document No. 2, 3) is **GRANTED**, and Count II of the complaint is **DISMISSED** with prejudice.

s/ Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All counsel of record as listed below

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